

1 Ehson Salaami, Esq. (SBN: 265717)

ehson@mincal.com

2 Amir Vafaei, Esq. (SBN: 259406)

amir@mincal.com

3 **MinCal Consumer Law Group**

1630 Copa De Oro Drive, Suite A

San Diego, CA 92037

Telephone: (888) 678-5550

6 Facsimile: (888) 678-6885

7 Attorneys for Plaintiff

Filed

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

14 David Hendricks

15 Plaintiff,

16 v.

17 Fair Collections & Outsourcing,
18 Inc., dba FCO

19 Defendant.

Case No.:

CV12-05056

Complaint For Damages

Jury Trial Demanded

HRL

22 **INTRODUCTION**

- 23 1. The United States Congress has found abundant evidence of the use of
24 abusive, deceptive, and unfair debt collection practices by many debt
25 collectors, and has determined that abusive debt collection practices
26 contribute to the number of personal bankruptcies, to marital instability, to the
27 loss of jobs, and to invasions of individual privacy. Congress wrote the Fair
28 Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter

ORIGINAL

1 “FDCPA”), to eliminate abusive debt collection practices by debt collectors,
2 to insure that those debt collectors who refrain from using abusive debt
3 collection practices are not competitively disadvantaged, and to promote
4 consistent State action to protect consumers against debt collection abuses.

5 2. The Rosenthal Fair Debt Collection Practices Act, Civil Code § 1788 *et seq.*
6 (“Rosenthal Act”) was enacted in 1976 to ensure the integrity of our banking
7 and credit industry. Cal. Civil Code § 1788.1(a)(i). The Legislature found:
8 “Unfair or deceptive debt collection practices undermine the public
9 confidence which is essential to the continued functioning of the banking and
10 credit system and sound extensions of credit to consumers.” *Id.*

11 3. This lawsuit also involves Defendant’s willful, knowing, and/or negligent
12 violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*
13 (hereinafter “FCRA”), which relates to the dissemination of consumer credit
14 and other financial information.

15 4. This lawsuit also involves Defendant’s willful, knowing, and/or negligent
16 violation of the Telephone Consumer Protection Act, 47 U.S.C. § 277 *et seq.*
17 (hereinafter “TCPA”).

18 5. David Hendricks, (“Plaintiff”), through Plaintiff’s attorneys, brings this action
19 to challenge the actions of Fair Collections & Outsourcing, Inc., (“Defendant”
20 or “FCO”), with regard to attempts by Defendant to unlawfully and abusively
21 collect a debt allegedly owed by Plaintiff, Defendant’s false and/or inaccurate
22 reporting on Plaintiff’s credit reports and Defendant’s failure to conduct
23 reasonable investigation with respect to such information, Defendant’s
24 contacts with Plaintiff via an automated dialer and/or artificial or prerecorded
25 voice, and this conduct caused Plaintiff damages.

26 6. Plaintiff makes these allegations on information and belief, with the exception
27 of those allegations that pertain to a plaintiff, or to a plaintiff’s counsel, which
28 Plaintiff alleges on personal knowledge.

1 7. While many violations are described below with specificity, this Complaint
2 alleges violations of the statutes cited in their entirety.

3 8. Unless otherwise stated, Plaintiff alleges that any violations by Defendant
4 were knowing and intentional, and that Defendant did not maintain
5 procedures reasonably adapted to avoid any such violation.

6 9. For the purpose of this Complaint, unless otherwise indicated, "Defendant(s)"
7 includes all agents, employees, officers, members, directors, heirs, successors,
8 assigns, principals, trustees, sureties, subrogees, representatives and insurers
9 of Defendant named in this caption.

10 JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT

11 10. This action arises out of Defendant's violations of the Fair Debt Collection
12 Practices Act, 15 U.S.C. §§ 1692 *et seq.* ("FDCPA"), the Fair Credit
13 Reporting Act, 15 U.S.C. §§ 1681 *et seq.* ("FCRA"), the Telephone Consumer
14 Protection Act, 47 U.S.C. § 277 *et seq.* ("TCPA"), and the Rosenthal Fair
15 Debt Collection Practices Act, California Civil Code §§ 1788-1788.32
16 ("RFDCPA").

17 11. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 15 U.S.C. §
18 1681p, and 28 U.S.C. § 1331. Supplemental jurisdiction exists for the state
19 law claims, pursuant to 28 U.S.C. § 1367 and rule 18(a) of the Federal Rules
20 of Civil Procedure.

21 12. Venue is proper in this Court because a substantial part of the claim arose in
22 California, and Defendant does business within the State of California.

23 13. Venue is proper pursuant to 28 U.S.C. § 1391.

24 14. This action should be assigned to the San Jose Division of this Court because
25 a substantial part of the events or omissions which give rise to this action
26 occurred in Santa Clara County.

PARTIES

15. Plaintiff is a natural person who resides in the City of Campbell, County of Santa Clara, State of California.
16. Plaintiff is obligated or allegedly obligated to pay a debt, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
17. Plaintiff is a natural person from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from Plaintiff, and is a "debtor" as that term is defined by California Civil Code § 1788.2(h).
18. Plaintiff is a "consumer," as defined by the FCRA § 603, codified as 15 U.S.C. § 1681a(c).
19. Defendant is located in the City of Beltsville, the County of Prince Georges, and the State of Maryland.
20. Defendant FCO does business in California, and is a "furnisher" as that term is used in 15 U.S.C. § 1681s-2.
21. Defendant is a person who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is therefore a debt collector as that phrase is defined by 15 U.S.C. § 1692a(6).
22. The Defendant is a "debt collector" within the meaning of Civil Code § 1788.2(c), in that Defendant regularly and in the ordinary course of business, on behalf of themselves or others, engaged in acts and practices in connection with the collection of consumer debts, and that Defendant is not an attorney nor counselor at law.
23. The alleged debt which the Defendant attempted to collect from Plaintiff is a "consumer debt" within the meaning of Civil Code § 1788.2(f), in that it was incurred primarily for personal, family, or household purposes.

1 24. For purposes of this Complaint, whenever Defendant contacted Plaintiff
2 directly by telephone, Defendant reached Plaintiff's cellular telephone via an
3 "automatic telephone dialing system," as that phrase is defined by 47 U.S.C. §
4 227(a)(1) and used "an artificial or prerecorded voice."

5 **FACTUAL ALLEGATIONS**

6 25. At all times relevant to this matter, Plaintiff was an individual residing within
7 the State of California.

8 26. At all times relevant, Defendant conducted business within the State of
9 California.

10 27. On or before June 30, 2011, Plaintiff incurred a financial obligation that was
11 primarily for personal, family or household purposes, namely, a debt for
12 monthly rent.

13 28. The purported financial obligations that Defendant attempted to collect from
14 Plaintiff were allegedly incurred for personal, family, or household purposes,
15 and is a "debt," as defined by FDCPA § 803, codified at 15 U.S.C. §
16 1692a(5).

17 29. These alleged obligations were money, property, or their equivalent, which is
18 due or owing, or alleged to be due or owing, from a natural person to another
19 person and are therefore a "debt" as that term is defined by California Civil
20 Code §1788.2(d), and a "consumer debt" as that term is defined by California
21 Civil Code §1788.2(f).

22 30. Sometime before August 1, 2011, Plaintiff allegedly fell behind in the
23 payments and the alleged debt was consigned, placed, or otherwise
24 transferred to Defendant for collection from Plaintiff. Plaintiff currently takes
25 no position as to the validity of this alleged debt.

26 31. On or about August 9, 2011, Plaintiff received a telephone call from
27 Defendant's agent "Dana Hill" identifying herself as an agent of Defendant
28

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1 and that the call was an attempt to collect a debt. Ms. Hill referenced an
2 important business matter and requested Plaintiff return her call.

3 32. This call was a "communication" because it was an attempt to collect a debt
4 as that term is defined by 15 U.S.C. § 1692a(2), and a "debt collection" as
5 that phrase is defined by Cal. Civ. Code § 1788.2(b), that term is defined by
6 15 U.S.C. § 1692a(2). Further, it was an "initial communication" consistent
7 with 15 U.S.C. § 1692g(a).

8 33. This communication was a "debt collection" as Cal. Civ. Code 1788.2(b)
9 defines that phrase, and an "initial communication" consistent with Cal. Civ.
10 Code § 1812.700(b).

11 34. Later that day, Plaintiff returned Defendant's phone call. During this call,
12 Defendant told Plaintiff that he owed "\$1,269.92."

13 35. Defendant's statements were false, deceptive, harassing and illegal
14 communications in an attempt to collect this debt, all done in violation of
15 numerous and multiple provisions of the FDCPA, including but not limited to
16 15 U.S.C. § 1692e and 15 U.S.C. § 1692e(10).

17 36. In addition, Defendant made false representation concerning the character,
18 amount, or legal status of a debt. Consequently, Defendant violated 15 U.S.C.
19 § 1692e(2)(A).

20 37. Furthermore, Defendant used an unfair or unconscionable means to collect or
21 attempt to collect any debt. Consequently, Defendant violated 15 U.S.C. §
22 1692f.

23 38. Because Defendant's conduct violated 15 U.S.C. §§ 1692e, 1692e(10),
24 1692e(2)(A), and 1692f, Defendant also violated Cal. Civ. Code § 1788.17.

25 39. Plaintiff disputed the debt on the phone, requested validation and not to be
26 called again.

27 40. Defendant FCO, without providing Plaintiff validation of the debt nor
28 following Plaintiff's request not to be contacted via telephone, called Plaintiff

Harassing Automated Phone Calls to Plaintiff

August 19, 2011	September 14, 2011	September 28, 2011
August 22, 2011	September 16, 2011	October 5, 2011
August 24, 2011	September 19, 2011	December 31, 2011
September 2, 2011	September 20, 2011	January 12, 2012
September 6, 2011*	September 22, 2011	January 20, 2012
September 8, 2011	September 26, 2011	

41. Through this conduct of repeated phone calls, Defendant engaged in conduct the natural consequence of which was to harass, oppress, or abuse a person in connection with the collection of a debt. Consequently, Defendant violated 15 U.S.C. § 1692d.

43. Through this conduct, Defendant caused a telephone to ring or engaged a person in telephone conversations repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number. Consequently, Defendant violated 15 U.S.C. § 1692d(5).

45. On or about January 20, 2012, Plaintiff returned Defendant's phone call placed to him from earlier that day. Plaintiff inquired as to Defendant's violation of his cease and desist request, and Defendant's failure to provide him with validation of the alleged account. In response, Defendant told

1 Plaintiff that he owed "\$1,269.92" and that they would send Plaintiff
2 validation.

3 46. On or about January 23, 2012, Plaintiff received an email with an attachment
4 containing a letter from Defendant. This letter was a "communication" as 15
5 U.S.C. §1692a(2) defines that term, and a "debt collection" as that phrase is
6 defined by Cal. Civ. Code § 1788.2(b).

7 47. Defendant sent eight (8) more identical letters on January 30, April 12, April
8 26, May 29, June 25, July 11, July 20, and July 31, of 2012.

9 48. In these letters, Defendant stated Plaintiff had an account balance of
10 "\$1,269.92."

11 49. Defendant's statements were false, deceptive, harassing and illegal
12 communications in an attempt to collect this debt, all done in violation of
13 numerous and multiple provisions of the FDCPA, including but not limited to
14 15 U.S.C. § 1692e and 15 U.S.C. § 1692e(10).

15 50. Through this conduct, Defendant made a false representation concerning the
16 character, amount, or legal status of a debt. Consequently, Defendant violated
17 15 U.S.C. § 1692e(2)(A).

18 51. Through this conduct, Defendant used an unfair or unconscionable means to
19 collect or attempt to collect any debt. Consequently, Defendant violated 15
20 U.S.C. § 1692f.

21 52. Because this conduct violated 15 U.S.C. §§ 1692e(2)(A), 1692e, 1692e(10),
22 and 1692f, Defendant also violated Cal. Civ. Code § 1788.17.

23 53. Defendant FCO, continued to contact Plaintiff twenty-four (25) more times
24 through automated phone calls, reaching Plaintiff's cell phone. These calls
25 were harassing and frequent in nature, which occurred on or about:
26
27
28

Additional Harassing Automated Phone Calls to Plaintiff

January 23, 2012	February 16, 2012	May 5, 2012
January 24, 2012* (5:06 A.M.)	February 17, 2012	May 25, 2012
January 25, 2012	February 21, 2012	June 13, 2012
January 27, 2012	February 22, 2012	July 5, 2012
January 31, 2012	March 16, 2012	July 11, 2012
February 6, 2012* (5:43 A.M.)	March 28, 2012	August 13, 2012**
February 7, 2012* (5:12 A.M.)	March 30, 2012	August 27, 2012**
February 9, 2012* (5:23 A.M.)	April 11, 2012	
February 15, 2012	April 19, 2012	

* Calls placed to Plaintiff before 8:00 A.M. in violation of FDCPA/RFDCPA.

** Calls placed to Plaintiff after Cease & Desist Letter was received by Defendant.

54. Defendant placed at least four (4) phone calls to Plaintiff before 8:00 A.M., as detailed above, on January 24, 2012, February 6, 2012, February 7, 2012, and February 9, 2012.

55. Without the prior consent of the consumer given directly to the Defendant or the express permission of a court of competent jurisdiction, Defendant communicated with the consumer in connection with the collection of a debt at an unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. Consequently, Defendant violated 15 U.S.C. § 1692c(a)(1).

- 1 56. Because this conduct violated 15 U.S.C. § 1692c(a)(1), Defendant also
2 violated Cal. Civ. Code § 1788.17.
- 3 57. On or about February 16, 2012, Defendant left a message for Plaintiff at his
4 place of employment with his coworker stating that Fair Collections and
5 Outsourcing was calling regarding a business matter.
- 6 58. Without the prior consent of the consumer given directly to the Defendant or
7 the express permission of a court of competent jurisdiction, Defendant
8 communicated with the consumer in connection with the collection of a debt
9 at the consumer's place of employment when Defendant knew or had reason
10 to know that the consumer's employer prohibited the consumer from
11 receiving such communication. Consequently, Defendant violated 15 U.S.C.
12 § 1692c(a)(3).
- 13 59. Because this action violated the language in the language in 15 U.S.C. §
14 1692c(a)(3), Defendant also violated Cal. Civ. Code § 1788.17 as it
15 incorporates 15 U.S.C. § 1692c(a)(3).
- 16 60. In addition, and except as provided in 15 U.S.C. § 1692b, and without the
17 prior consent of the consumer given directly to the Defendant, and without the
18 express permission of a court of competent jurisdiction, and for a purpose not
19 reasonably necessary to effectuate a postjudgment judicial remedy, Defendant
20 communicated, in connection with the collection of a debt, with a person
21 other than the consumer, his attorney, a consumer reporting agency, the
22 creditor, the attorney of the creditor, or the attorney of Defendant.
23 Consequently, Defendant violated 15 U.S.C. § 1692c(b).
- 24 61. Because this action violated the language in the language in 15 U.S.C. §
25 1692c(b), Defendant also violated Cal. Civ. Code § 1788.17 as it incorporates
26 15 U.S.C. § 1692c(b).
- 27 62. On or about February 20, 2012, Defendant called Plaintiff's mother.
28 Defendant already had all of Plaintiff's contact information, including phone

1 numbers and addresses. Despite this, Defendant contacted Plaintiff's mother
2 and in a demanding tone requested all sorts of personal information that led
3 Plaintiff's mother to believe someone wanted to perpetrate identity theft with
4 Plaintiff's personal information.

5 63. Except as provided in 15 U.S.C. § 1692b, and without the prior consent of the
6 consumer given directly to the Defendant, and without the express permission
7 of a court of competent jurisdiction, and for a purpose not reasonably
8 necessary to effectuate a postjudgment judicial remedy, Defendant
9 communicated, in connection with the collection of a debt, with a person
10 other than the consumer, his attorney, a consumer reporting agency, the
11 creditor, the attorney of the creditor, or the attorney of Defendant.
12 Consequently, Defendant violated 15 U.S.C. § 1692c(b).

13 64. Because this action violated the language in the language in 15 U.S.C. §
14 1692c(b), Defendant also violated Cal. Civ. Code § 1788.17 as it incorporates
15 15 U.S.C. § 1692c(b).

16 65. Furthermore, on or about July 16, 2012, Plaintiff wrote and mailed Defendant
17 a certified letter which requested Defendant cease and desist all telephone
18 communications with him.

19 66. Defendant received Plaintiff's cease and desist letter on or about July 20,
20 2012. Even after Defendant was notified in writing that Plaintiff refused to
21 pay the alleged debt or wished Defendant to cease further communication
22 with the consumer, Defendant continued its communications with respect to
23 such debt, for a purpose other than enumerated in 15 U.S.C. § 1692c(c) as
24 detailed above on August 13, 2012, and August 27, 2012. Consequently,
25 Defendant violated 15 U.S.C. § 1692c(c).

26 67. Because this conduct violated 15 U.S.C. § 1692c(c), Defendant also violated
27 Cal. Civ. Code § 1788.17.
28

TCPA VIOLATIONS

68. Defendant used "an artificial or prerecorded voice" as prohibited by 47 U.S.C. §227(b) (1) (A), for at least four telephone calls made to Plaintiff referenced above in 2012, particularly on July 5, July 11, August 13, and August 27.

69. The telephone number Defendant called connected to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §227(b)(1).

70. These telephone calls constituted calls that were not for emergency purposes as defined by 47 U.S.C. §227(b) (1) (A) (i).

71. Plaintiff did not provide prior express consent to receive calls on his number, pursuant to 47 U.S.C. §227(b) (1) (A).

72. These telephone calls by Defendant violated 47 U.S.C. §227(b)(1).

73. Plaintiff was harmed by the acts of Defendant in at least the following ways: (a) Defendant illegally contacted Plaintiff by reaching Plaintiff's cellular phone which caused Plaintiff to incur certain cellular telephone charges, or (b) Defendant's calls reduced cellular telephone time for which Plaintiff had previously paid for, or (c) Plaintiff had to retrieve or administer messages left by Defendant and these illegal calls invaded Plaintiff's privacy.

74. Defendant's calls to Plaintiff and engaging Plaintiff in conversation repeatedly and continuously with the intent to annoy, abuse and/or harass him caused Plaintiff damage, including stress and anxiety.

FCRA VIOLATIONS

75. On or before May 30, 2012, Plaintiff obtained a copy of his credit reports and noticed Defendant was reporting an inaccurate balance/account on his reports.

76. Defendant was falsely reporting to the consumer reporting agencies that Plaintiff owed "\$1270.00."

- 1 77. On or about July 10, 2012, Plaintiff initiated an investigation request by
2 sending a letter to each of the consumer reporting agencies (TransUnion,
3 Equifax, and Experian) disputing the account balance stating in each letter
4 that the balance was reported erroneously because of the way prorated rent
5 was calculated.
- 6 78. During the course of the investigation that was performed by each of the
7 consumer reporting agencies, the consumer reporting agencies forwarded to
8 Defendant all relevant information regarding the dispute of the alleged debt
9 that Plaintiff had provided them, and thus Defendant received notice of the
10 dispute from the consumer reporting agencies.
- 11 79. During the course of the investigation initiated by Plaintiff, Defendant
12 received a Consumer Dispute Verification Form ("CDV") from each of the
13 three consumer reporting agencies regarding Plaintiff's alleged account debt
14 that was being reported to them by Defendant.
- 15 80. In response to the CDV that it received from each of the three consumer
16 reporting agencies regarding the alleged account debt, Defendant purported to
17 conduct an investigation of Plaintiff's dispute within thirty (30) days of its
18 receipt of the CDV form.
- 19 81. Defendant, through its employees that participated in investigating Plaintiff's
20 dispute and completing the CDV, falsely verified to each of the consumer
21 reporting agencies that Plaintiff owed "\$1270.00" to Defendant on the
22 account.
- 23 82. Specifically, in response to the investigation request, Plaintiff received letters
24 as follows:
- 25 83. On July 18, 2012, Equifax wrote Plaintiff informing him that Defendant had
26 verified the account balance reported by Defendant on his credit report to be
27 accurate.
- 28

1 84. On July 24, 2012, TransUnion wrote Plaintiff informing him that Defendant
2 had verified the account balance reported by Defendant on his credit report to
3 be accurate and "verified" with "no changes."

4 85. On July 25, 2012, Experian wrote Plaintiff informing him that Defendant had
5 verified the account balance reported by Defendant on his credit report to be
6 accurate and it "remains" on the report.

7 86. In July 2012, Defendant misrepresented the truth and reported false credit
8 information to the consumer reporting agencies, alleging that Plaintiff owed a
9 balance of "\$1270.00" on the account.

10 87. Any reasonable investigation by Defendant, as to the accuracy of the alleged
11 debt being reported would have revealed that Plaintiff did not owe Defendant
12 the balance that it was reporting on the account.

13 88. Defendant did not perform a reasonable investigation of Plaintiff's dispute,
14 and did not consider information reasonably available to Defendant when it
15 "verified" to the consumer reporting agencies that Plaintiff owed Defendant
16 "\$1270.00" on the alleged account.

17 89. Defendant continues to falsely report that Plaintiff owes a balance of
18 "\$1270.00" to the consumer reporting agencies.

19 90. Plaintiff was damaged and continues to be damaged by Defendant's false
20 reporting.

21 *Summary*

22 91. All of the above-described communications were made by Defendant to
23 harass Plaintiff in an effort to collect an alleged debt. These communications
24 were made in violation of numerous and multiple provisions of the FDCPA ,
25 FCRA, RFDCPA, and TCPA, including but not limited to all of the above
26 cited provisions, amongst others.

27 92. The above-detailed conduct by Defendants harassing Plaintiff in an effort to
28 collect this alleged debt was an invasion of Plaintiff's privacy by intrusion

upon seclusion and by intruding upon Plaintiff's right to be left alone and has resulted in actual damages to Plaintiff.

93. Plaintiff has experienced anger, anxiety, sleeplessness, nervousness, hopelessness, fear, frustration, despair, depression, humiliation, embarrassment, amongst other negative emotions, as well as suffered from unjustified and abusive invasions of personal privacy.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

15 U.S.C. §§ 1692 ET SEQ.

94. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.
95. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 *et seq.*
96. As a result of each and every violation of the FDCPA, Plaintiff is entitled to statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

COUNT II

WILLFUL NONCOMPLIANCE WITH THE FAIR CREDIT REPORTING ACT (FCRA)

15 U.S.C. §§ 1681 ET SEQ.

97. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.
98. The foregoing acts and omissions constitute numerous and multiple willful or reckless violations of the FCRA, including but not limited to 15 U.S.C § 1681s-2(b), and each and every one of the above-cited provisions of the FCRA, 15 U.S.C § 1681.

1 99. As a result of each and every violation of the FCRA, Plaintiff is entitled to
 2 any actual damages sustained, or statutory damages in an amount up to
 3 \$1,000.00 pursuant to 15 U.S.C. § 1681n(a)(1)(A); and reasonable attorney's
 4 fees and costs pursuant to 15 U.S.C. § 1681n(a)(3) from Defendant.

5 **COUNT III**

6 **NEGLIGENT NONCOMPLIANCE WITH THE FAIR CREDIT REPORTING ACT (FCRA)**

7 **15 U.S.C. §§ 1681 ET SEQ.**

8 100. Plaintiff repeats, re-alleges, and incorporates by reference, all other
 9 paragraphs.

10 101. The foregoing acts and omissions constitute numerous and multiple negligent
 11 violations of the FCRA, including but not limited to each and every one of the
 12 above-cited provisions of the FCRA, 15 U.S.C § 1681.

13 102. As a result of each and every violation of the FCRA, Plaintiff is entitled to
 14 any actual damages sustained pursuant to 15 U.S.C. § 1681o(a)(1); and
 15 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681o(a)(2) from
 16 Defendant.

17 **COUNT IV**

18 **VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT** 19 **(RFDCPA)**

20 **CAL. CIV. CODE §§ 1788-1788.32**

21 103. Plaintiff repeats, re-alleges, and incorporates by reference, all other
 22 paragraphs.

23 104. The foregoing acts and omissions constitute numerous and multiple violations
 24 of the RFDCPA, including but not limited to each and every one of the above-
 25 cited provisions of the RFDCPA, Cal. Civ. Code §§ 1788-1788.32.

26 105. As a result of each and every violation of the FDCPA, Plaintiff is entitled to
 27 statutory damages for a knowing or willful violation in the amount up to
 28 \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); any actual damages

1 pursuant to Cal. Civ. Code § 1788.30(a); and reasonable attorney's fees and
2 costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

3 **COUNT V**

4 **CREDIT DEFAMATION**

5 106. Plaintiff repeats, re-alleges, and incorporates by reference, all other
6 paragraphs.

7 107. Defendant's foregoing actions and omissions, including but not limited to
8 reporting errors on Plaintiff's credit reports, constitute credit defamation.

9 108. Defendant's foregoing actions and omissions were intentional and malicious.

10 109. As a result of Defendant's intentional and malicious credit defamation,
11 Plaintiff has suffered actual damages, including without limitation credit
12 denials, out-of-pocket expenses, detriment to Plaintiff's credit rating and
13 emotional distress.

14 **COUNT VI**

15 **INVASION OF PRIVACY**

16 **INTRUSION UPON SECLUSION**

17 110. Plaintiff repeats, re-alleges, and incorporates by reference, all other
18 paragraphs.

19 111. Plaintiff had a reasonable expectation of privacy while some of the above
20 conduct took place.

21 112. Defendant intentionally intruded into this expectation of privacy.

22 113. Defendant intrusion would be highly offensive to a reasonable person.

23 114. Plaintiff was harmed.

24 115. The conduct of Defendant was a substantial factor in causing Plaintiff this
25 harm.

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COUNT VII

**NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
(TCPA)**

47 U.S.C. §§ 277 *ET SEQ.*

116. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

117. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above- cited provisions of 47 U.S.C. § 227 et seq.

118. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., an award of \$500.00 in statutory damages for each and every violation, pursuant to 47 U.S.C. § 227(b) (3) (B).

119. Plaintiff is also entitled to and seeks injunctive relief prohibiting such conduct in the future.

120. Plaintiff also seeks other and further relief this honorable Court deems appropriate.

COUNT VIII

**WILLFUL OR KNOWING VIOLATIONS OF THE TELEPHONE CONSUMER
PROTECTION ACT (TCPA)**

47 U.S.C. §§ 277 *ET SEQ.*

121. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

122. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

123. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. §227 et seq., Plaintiff is entitled to an award of \$1,500.00 in statutory

1 damages for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B)
 2 and 47 U.S.C. § 227(b)(3)(C).

3 124. Plaintiff is also entitled to and seeks injunctive relief prohibiting such conduct
 4 in the future.

5 125. Plaintiff also seeks other and further relief this honorable Court deems
 6 appropriate.

7 PRAYER FOR RELIEF

8 WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and
 9 Plaintiff be awarded damages from Defendant, as follows:

- 10 • An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §
 11 1692k(a)(2)(A);
- 12 • An award of costs of litigation and reasonable attorney's fees, pursuant
 13 to 15 U.S.C. § 1692k(a)(3);
- 14 • An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- 15 • An award of actual damages or statutory damages of \$1,000.00 pursuant
 16 to 15 U.S.C. § 1681n(a)(1)(A);
- 17 • An award of costs of litigation and reasonable attorney's fees, pursuant
 18 to 15 U.S.C. § 1681n(a)(3);
- 19 • An award of actual damages pursuant to 15 U.S.C. § 1681o(a)(1);
- 20 • An award of costs of litigation and reasonable attorney's fees, pursuant
 21 to 15 U.S.C. § 1681o(a)(2);
- 22 • An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code
 23 § 1788.30(b);
- 24 • An award of costs of litigation and reasonable attorney's fees, pursuant
 25 to Cal. Civ. Code § 1788.30(c);
- 26 • An award of actual damages pursuant to California Civil Code §
 27 1788.30(a);
- 28

- An award of actual damages from Defendant for the emotional distress suffered as a result of the intentional and/or negligent invasions of privacy in an amount to be determined at trial for Plaintiff;
- An award of \$500.00 in statutory damages for each and every violation, pursuant to 47 U.S.C. § 227(b) (3) (B);
- An award of \$1,500.00 in statutory damages for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b) (3)(C);
- Injunctive relief;
- Special, general, compensatory and punitive damages;
- For such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

126. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

MinCal Consumer Law Group

By: Ehson Salaami
 Ehson Salaami
Attorneys for Plaintiff

Date: 9/26/12

MIN/CAL CONSUMER LAW GROUP
San Diego, California